IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

WEDNESDAY, THE FIRST DAY OF DECEMBER
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE N.V. RAMANA

WRIT PETITION NO : 21419 of 2004

Between:

P. Venkata Muni Reddy, S/o. Late P. Ramachandra Reddy,
R/o. Thondawada Village, Chandragiri Mandal, Chittoor District.

..... PETITIONER

AND

1 The Mandal Revenue Officer, Chandragiri Mandal,
Chittoor District.
2 The District Collector, Chittoor District.
3 The Government of A.P., rep. by Secretary, Revenue Department,
Secretariat Buildings, Hyderabad.

....RESPONDENTs

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to Issue any writ, order or direction more in the nature writ of Mandamus declaring the inaction of the respondents on my application dt. 8.9.1992 for assigning the Government Poramboke in Sy.NO.28 admeasuring Ac.1-05 cents situated at Tondawada Village, Chandaragiri Mandal, Chittoor District as null and void and direct the respondents to assign the land in petitioner's favour.

Counsel for the Petitioner:MR.THIMMADISUDHAKAR REDDY

Counsel for Respondents 1 to 3: GP FOR REVENUE

The Court at the admission stage made the following:

ORDER :

Heard the learned counsel for the petitioner and the learned Government Pleader for Revenue and with their consent the writ petition is finally disposed of at the stage of admission.

The petitioner claims to have encroached an extent of Ac.1-05 cents of land in Survey No.28 of Tondawada village, Chandragiri Mandal, Chittoor District and continued in possession and enjoyment of the same by paying taxes to the Government. He states that he owns an extent of Ac.1-01 cents of land, and according to him, if the land owned by him and the land in question which is under his encroachment put together, he would come within the definition of landless poor person. He claims to have made an application on 8-9-1992 for the assignment of the land in his favour, to the Mandal Revenue Officer, Chandragiri, who in turn directed the Mandal Revenue Inspector to enquire into the matter. It is stated that on enquiry the Mandal Revenue Inspector submitted his report and on the basis of the said report, the Mandal Revenue Officer recommended the application of the petitioner to Revenue Divisional Officer. The petitioner complains that till date no action has been taken by the Revenue Divisional Officer, and while the matter is pending before the Revenue Divisional Officer, the Mandal Revenue Officer, on 19-11-2004, visited the land and threatened to evict the petitioner from the subject land. Therefore, the petitioner filed this writ petition seeking a direction to the respondents to assign the said land in his favour.

Refuting the allegations made in the affidavit filed in support of the writ petition,

respondent No.1-Mandal Revenue Officer filed parawise remarks. It is stated that the petitioner is a pink ration card holder and wealthy person having two tractors of his own, and his standard of living is above the poverty line, and therefore, he is not eligible for grant of any assignment. It is also stated that the subject land is a valuable land situated abutting the National Highway to Tirupati and classified as kalva poramboke, and the Government have taken steps to safe guard the land from unscrupulous anti-social elements. The land is prohibitive from assignments in B.S.O.15(4). It is further stated that pursuant to the directions of the District Collector, Chittoor, the said land was proposed for communal purpose namely, for construction of B.C. Welfare Hostel Complex. The petitioner filed a suit in O.S. No.653 of 2001 on the file of the Principal Junior Civil Judge, Tirupati and the same was dismissed. He also filed an appeal against the order of the trial Court and the same is pending in C.M.A. No. 58 of 2001 on the file of IV Additional District Judge, Tirupati. It is stated that the petitioner filed this writ petition for the same relief, which he asked for in the suit. It is stated that proceedings were initiated in the year 2003 under the A.P. Land Encroachment Act, 1905 for evicting the petitioner from the land in question and notices under Sections 7 and 6 of the A.P. Land Encroachment Act, 1905 were issued to him and when he refused to receive the notices, substitute service was effected under due process of law as envisaged under A.P. Land Encroachment Act, 1905, and the same was also communicated in the village by beat of tom tom. It is stated that the writ petition may be dismissed.

Heard the learned counsel for the petitioner and the learned Government Pleader for Revenue.

Any assignment of Government land to the landless poor or encroachers thereof is within the exclusive domain of Revenue Officials, and it can generally be granted in accordance with the policy decision of the Government after considering the ground realities namely, availability of suitable land, social status, eligibility criteria and economical condition of the beneficiary and conducting necessary enquiry in accordance with the procedure contemplated under law. Therefore, the petitioner cannot claim assignment as a matter of right in the guise of possessing and enjoying the land by paying taxes to the Government.

As the petitioner refused to receive the notices issued by the respondents under Sections 6 and 7 of the A.P. Land Encroachment Act, 1905, the respondents after effecting substitute service of the notices as envisaged under the provisions of A.P.

Land Encroachment Act, had rightly initiated proceedings against the petitioner under the A.P. Land Encroachment Act, 1905 for his eviction. Therefore, the petitioner cannot seek assignment, and in the guise of seeking directions to the respondents to assign the land, he cannot be allowed to continue in the encroached land, thereby frustrating the proceedings initiated against him for his eviction under the A.P. Land Encroachment Act, 1905.

As per the parawise remarks of respondent No.1, the land in question, in respect of which, the petitioner is seeking assignment, is classified as Kalva poramboke, and this apart, it is said to be worth lakhs of rupees. The apex Court and this Court, time and again consistently held that Kalva Poramboke lands cannot be assigned and the same have to be protected.

In the above view of the matter, the writ petition has no merit and the same is dismissed accordingly at the stage of admission. No costs.

When, as per the parawise remarks, the petitioner is a wealthy person, owning two tractors and is doing other businesses, I fail to understand how the then Mandal Revenue Officer could have certified that the petitioner is a landless poor, and recommended his application for assignment of the land. The manner in which the revenue officials declared the financial status of the petitioner despite being wealthy to be poor, would *prima facie* indicate the collusion of the revenue department officials with the petitioner, which requires to be investigated into and necessary action taken against the erring officials, who took sides with the petitioner.

In the above factual background, the District Collector is directed to conduct an enquiry into the matter, and take action against the officials, who recommended the case of the petitioner to the Revenue Divisional Officer, for assignment of the land in question.

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N.V.RAMANA,J

1-12-2004

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To

1 The Mandal Revenue Officer, Chandragiri Mandal,
Chittoor District.
2 The District Collector, Chittoor District.
3 The Government of A.P., rep. by Secretary, Revenue Department,
Secretariat Buildings, Hyderabad.

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